

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CRAIG R. SMITH,

Case No. 2:17-CV-2092 JCM (NJK)

Plaintiff(s),

ORDER

V.

NANCY A. BERRYHILL,

Defendant(s).

Presently before the court is Magistrate Judge Koppe's report and recommendation ("R&R") in the matter of *Smith v. Berryhill*, case number 2:17-cv-02092-JCM-NJK. (ECF No. 25). No objections have been filed, and the deadline for doing so has passed.

Upon considering plaintiff's motion to remand to the Social Security Administration (ECF No. 19) and the commissioner's countermotion to affirm (ECF No. 22), Magistrate Judge Koppe concluded that the administrative law judge ("ALJ") did not err in partially rejecting plaintiff's pain and symptom testimony. (ECF No. 25 at 7, 14). Because the ALJ's rejection of plaintiff's testimony is the single issue on appeal before the court, Magistrate Judge Koppe recommended plaintiff's motion to remand be denied, and the commissioner's countermotion to affirm be granted. *Id.* at 14.

This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a de novo determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1).

1 Where a party fails to object, however, the court is not required to conduct “any review at
2 all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149
3 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a
4 magistrate judge’s report and recommendation where no objections have been filed. *See United*
5 *States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review
6 employed by the district court when reviewing a report and recommendation to which no
7 objections were made).

8 Nevertheless, this court conducted a *de novo* review to determine whether to adopt the
9 recommendation of the magistrate judge. Upon reviewing the recommendation and underlying
10 briefs, this court finds good cause appears to adopt the magistrate judge's findings in full.

11 || Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Magistrate Judge Koppe's
13 report and recommendation (ECF No. 25) are ADOPTED in their entirety.

14 IT IS FURTHER ORDERED that plaintiff's motion to remand (ECF No. 19) is DENIED.

15 IT IS FURTHER ORDERED that the commissioner's countermotion to affirm (ECF No.
16 22) is GRANTED.

17 The clerk of court is instructed to enter judgment accordingly and close the case.

18 DATED November 1, 2018.

~~James C. Mahan~~
UNITED STATES DISTRICT JUDGE